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#### CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from California (Mr. DOOLITTLE) is recognized for 60 minutes.

Mr. DOOLITTLE. Mr. Speaker, we constantly hear these days from reformers who support a bigger Federal Government that campaigns cost too much and that government must step in and further regulate campaign spending. But I ask my colleagues, is spending on political advertising really out of control?

Consider this: Tonight Americans will watch the final episode of *Seinfeld* and a 30-second ad purchased tonight during that final episode will cost \$1.5 million for 30 seconds. By contrast, the cost of a typical congressional race is about \$0.5 million or one-third the 30-second ad tonight on *Seinfeld*.

By restricting a candidate's ability to spend campaign dollars, we will restrict his ability to speak to potential voters through television, radio, mail and personal appearances. This is the very type of speech the Founders sought to protect through the first amendment to the United States Constitution.

When we support spending limits, we must feel that there is too much speech in political campaigns and that candidates communicate too much with voters. How is it that spending a few billion dollars exercising our most precious rights as Americans is deemed to be excessive while the tens of billions of dollars spent on disposable consumer products is not? Free political discourse and plenty of it is infinitely more valuable to the protection of our liberties than any beer or car commercial can ever be.

In 1996, spending on all campaigns, Federal and State, totaled just \$4 billion, yet Americans spend roughly five times that much, or \$20 billion per year, on laundry and dry cleaning. In comparison, total advertising in a year, that year, 1996, was around \$150 billion versus the \$4 billion spent on campaigns at all levels of government.

Total campaign spending viewed another way, per eligible voter, averages just \$3.89, really the cost, approximately, of a McDonald's value meal. Is that amount too much? Even at a much higher price, liberty would be a much better value.

Total campaign spending as a percentage of the gross domestic product is not increasing, as is stated by some and implied by others, but rather it has remained fairly constant since 1980, fluctuating between .04 percent and .06 percent of the gross domestic product.

Voters have minds of their own. They are not helpless to make their own decisions in the face of political advertising. Money spent on advertising does not buy votes, it enhances a can-

didate's ability to communicate his message to voters.

I urge my colleagues to oppose any measure that would ration our constitutional rights, and I would remind people that the first amendment is quite clear on this subject. It states: Congress shall make no law, shall make no law, abridging the freedom of speech.

Next week the House of Representatives will engage in a historic debate about campaign reform and what needs to be done to address the problems that confront us. Before we can embark upon a course of reform, we had better have a clear understanding of what those problems are. Once we know what they are, we should then consider how to address them.

I would submit that the problem of campaign reform is much like the case of the sick patient who has been diagnosed and treated by the same physician for a long period of time. If the diagnosis is wrong, then the treatment prescribed is not going to help the patient. In this case, we see that the patient is ill and the same doctor is treating him and the same prescription is being offered, only more of it. And the more that is given, the sicker the patient gets.

We hear a great deal of talk today about the evils of soft money. Most Americans, I would venture, really have no idea even what soft money is. We hear the terms "hard money" in contrast to "soft money." We hear discussions of issue advocacy or we will hear the term "independent expenditure." I would just observe that these were terms that really came into being the first time the Dr. Regulator made his prescription for the patient when, in 1974, the Democrats ran through a partisan law that took partisan advantage and skewed the whole Federal law in favor of their party and against Republicans.

Now, after this law was passed, we began to understand a new term, the term of "PAC." I remember 2 or 3 years ago when our big government reformers were trying to outlaw PACs, or political action committees; it is funny that we do not hear much about that anymore. PACs have not changed, it is just that now all the focus is on something else, soft money. But let me just remind all my colleagues that basically the terms of "PACs" and "soft money" came into being as a result of the present Federal law, rammed through Congress by liberal Democrats taking advantage of the reaction against the Republicans and Richard Nixon. And they put that law through, and ever since we have seen the ill effects of that law.

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And now when the body politic is deemed to be even sicker, Dr. Regulator is back again with the same old prescription; more regulation. The answer is always the same; more regulation.

Now, what is the question? It is very interesting how over the years this has never changed. We always have to have a new law, a new regulation proposed to fix something. In this case, they are trying to fix our campaign system. Let me suggest that the cause of the patient's illness is the regulation itself. That is the cause. If we wanted to deal with the underlying problem and heal that patient, remove the regulation.

Now, there is a truly radical idea; remove the regulation, do not have more of it, as virtually everyone on the other side proposes and some of our own Republicans are proposing. Reconsider what is causing the sickness. Get a proper diagnosis. Then we will be able to proceed.

I would submit that the various ideas being advanced by the left and by some of us here on our side of the aisle are flat-out wrong and they will not solve the problem. I believe them to be highly undesirable, unconstitutional. But even setting aside those two things, actually they are quite unworkable. If regulation worked, we would not have the mess that we have today in our Federal campaign system; we would not have a presidential system that takes our taxpayer dollars and spends it on candidates that we oppose as taxpayers. That system needs to be repealed. That system is hurting us. That is denying the parties their most vibrant candidate.

Think for a minute to the 1996 campaign and what happened on the Republican side and think ahead to what is likely to happen this time around. The candidate who was nominated, the candidate who is going to be nominated is the one who has the highest name ID amongst the voters no matter what his ideas or record happens to be. There is very little information available to the voter about this person, and there will continue to be little information because we have such strict spending limits set in law that it is not possible for the candidates at the presidential level to communicate their ideas.

We saw that fully played out in the Republican side of it. Senator Dole, by the time he was able to win enough delegate votes to cinch up the nomination, was unable to continue spending between that point and the Republican Convention in midsummer because of the Federal campaign law. How on Earth can this be good policy? How can this be consistent with the precious first amendment, which says so clearly that Congress shall make no law abridging the freedom of speech?

Let me just observe, before this disastrous 1974 law rammed through Congress, bipartisan liberal Democrats twisting the law to their own advantage, the law that we live under today, our campaigns were relatively unregulated and it worked relatively well. It was not perfect, but we will never achieve perfection as long as mortal human beings are upon the face of the Earth governing themselves. So let us not look for perfection; let us look for

the best that we can get and something that works.

I would submit, Mr. Speaker, that the system we have today is worse than what we had. We have tried to correct abuses and created far worse problems. The problems we have today are violations of the first amendment. We do not have free speech in this country anymore when it comes to campaigning.

I find in my district voters are hungry for reliable information about the candidates. They want to hear directly from the candidate and it is getting harder and harder to do that. People should be offended that under the present law an individual can, or, rather, a political action committee can contribute five times what an individual can contribute to a candidate's campaign. Why is that just or right or fair that there is a 5-1 advantage?

After all, the first amendment says Congress shall make no law abridging the freedom of speech. So how did it get abridged? By a statute enacted into law by the Congress and the President.

Well, this was tested in the famous *Buckley v. Valeo* case, and almost all of that tremendous law passed in 1994 was thrown out, except for just a couple of parts, the parts that remain with us today and that still negatively afflict the campaign system and really the body politic. And the Supreme Court did uphold the right by Congress to place limits on what amounts could be contributed to campaigns, limits that skewed it in favor of PACs and against individuals.

However, as time has gone on, the value of these limits has been eroded; whereas at the time, an amount that could be contributed to an individual was \$1,000 or by an individual to a candidate was \$1,000 and by a PAC to a candidate was \$5,000. And while those limits are in effect right now under present law, which has never been changed, let me just observe we will have extraordinarily high inflation in the intervening years. So that today, the \$1,000 and the \$5,000 have been reduced by two-thirds.

Now, earlier I told my colleagues that the cost of a *Seinfeld* ad for 30 seconds was \$1½ million. Those are today's prices in 1998. But we still live by a campaign law that was written in 1974, when the equivalent 30-second add was dramatically less. The fact of the matter is, political advertising of all kinds has gone up with inflation and probably above inflation, and yet campaigns are still restricted to the old limits that are the present limits.

Mr. Speaker, the gentleman from New York (Mr. SOLOMON) understands these issues very well and has been valiant in fighting to protect our First Amendment rights. And we hope and pray that others will be similarly valiant in the upcoming debate and series of votes that will be commencing next week.

Let me just observe that "hard money," the term that we apply to

that, is contributed from individuals or PACs or parties to the campaign of the candidates. Those are hard dollars, strictly regulated by Federal law, very unfair, very burdensome, very biased Federal law that was passed over 20 years ago.

As I indicated before, the inflation has been dramatic, it has eroded the real purchasing value of the limitation by two-thirds, and we live with that today. As the cost of advertising has shot up over the years, campaign spending has followed the course of least resistance.

It so happens that it is possible to engage in a form of spending using soft money. Soft money is money that is not covered by the Federal law and it is money that cannot go directly to campaigns but it must be used for voter registration, get-out-the-vote effort, voter identification, those kinds of things. That is soft money.

That was felt to be very desirable at one point by our elected officials. And in fact, after the 1976 campaign *Ford v. Carter*, both parties felt that we should strengthen the ability of parties and we should strengthen it by allowing them to make greater use of the so-called "soft money," that in order to have healthy, vibrant political parties, they needed to be able to engage in this kind of campaign spending.

In fact, since that time, the U.S. Supreme Court has repeatedly held that we cannot proscribe spending by political parties in the soft money area. In fact, very recently in the Supreme Court case involving the Republican Party of Colorado, they explicitly held that this was clearly protected by the first amendment to the United States Constitution.

I remain amazed, despite these clear pronouncements of the Court time and time again, *Buckley v. Valeo* has been cited by the Court over 100 times in subsequent opinions. That was rendered in 1976. So, for 22 years, this case has been repeatedly cited and yet we are constantly finding bills introduced that fly right in the face of the U.S. Constitution as interpreted by the Supreme Court.

In fact, there is now a special project made up of law professors all over the country. I understand, to figure out ways to bring court challenges to get *Buckley v. Valeo* overturned. Because as long as that court opinion stands, none of these laws being proposed that abridge our first amendment rights is ever going to be able to stand the court test.

To commend a colleague who is a liberal Democrat, and with whom I disagree completely on this issue because I will commend him for his honesty, the gentleman from Missouri (Mr. GEPHARDT) recognizes that to do what he and the Democrats want to do cannot be done by statute; it can only be done by amending the Constitution of the United States. And indeed, that is what he has proposed to do, actually amend the Constitution, modify the first

amendment, and basically make it possible so that Congress can legitimately abridge a citizen's first amendment rights and do so to accomplish the greater good of campaign reform, greater good in his mind, not in my mind and, I would submit, not in the minds of most Americans. But at least there is honesty in attempting to go about it the right way; because we cannot do the things that many of my colleagues seek to do and be consistent with our great U.S. Constitution until and unless we deregulate this campaign system and follow the Constitution, which clearly says that Congress is supposed to stay out of it.

And by the way, of all the types of speech, guess what the most vital, most important form of speech was in the minds of the framers? It was not the ability to go out and advertise automobiles or beer or something like that. It was political discourse, the very thing the British Government tried to abridge when it was in power. We tried to prevent that from ever happening again by having the first amendment to the United States Constitution, which I think is unique amongst the nations of the world. Our adherence to that is better than any other country. We have a very, very clear standard.

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The government should not be able to regulate in this area. The government must not regulate in this area, and, indeed, the government cannot effectively regulate in this area. Because as long as we have any shred of a Constitution left, you are going to have the ability of individuals acting independently or of groups acting independently to contribute whatever amount of money they would like to political campaigns.

You see, today we are seeing increasingly the ability of the average person to run be depreciated. Look how with increasing frequency, individuals of personal wealth are running for these offices. Why? Because there is a great exception to the Federal campaign law, one the drafters of it did not wish to allow, but one the Supreme Court carved, and they carved it legitimately and correctly; that is, you have the unlimited right to spend whatever you wish on your campaign.

So an individual that is going to spend his own millions can do so for as much as he would like or she would like. Yet, that same individual who may have \$1 billion can only give \$1,000 to some other candidate, to a candidate of average means, to someone who works for a living and who supports his or her family, but who believes that he or she can make a difference in our public affairs.

But this person is not a millionaire or a billionaire. This person, therefore, cannot contribute his own personal wealth, because he does not have personal wealth. All he or she can do is go out and live by the limits imposed by

Federal law and get these contributions in the amounts that I told you, \$1,000 or \$5,000.

In case anybody is wondering, you know, you hear these reports that Members of Congress have these fund-raisers, and representatives of PACs come and tender the check. I will check my own campaign reports recently but, over time, I think I only have, out of about the half million dollars or so that I, as one representative, am able to raise in campaign dollars over a 2-year period, I will bet you I do not have more than two or at most three political action committees donate the maximum \$5,000 contribution. It just is not that common.

The only reason I share that with you is to indicate that when you have to raise, as a challenger, by the way, you see, I am an incumbent now; if I really wanted to feather my own nest as an incumbent, I would climb on board and vote tomorrow for McCain-Feingold or Shays-Meehan, because I will make it infinitely more difficult for someone to try and challenge me. It will be infinitely more difficult as an incumbent and it will be infinitely more difficult for any challenger to be able to successfully challenge an incumbent.

Why? Because the incumbent has the advantages of office. Let us start with name identification in the mind of the voter. That is number one. Most people have heard of me in the Fourth Congressional District of California, because I am an incumbent and have run before.

By virtue of that fact, it is much easier for me to go out and hold a fundraiser and have a number of individuals come in and contribute to me in relatively small amounts, because I am known, than it is for a challenger who is virtually unknown to go out and hold a fund-raiser.

Almost no one will show up, figuratively speaking, because nobody knows the individual. They have never even heard of his name. So why would they show up at some event? Why would they write a check to him? They do not really know him. So name ID and incumbency are tremendous advantages.

Most studies show that the challenger has to outspend the incumbent in order to win the seat. You will make it infinitely more difficult for that challenger in order to prevail if you go with the big government types of campaign reform that impose further limits and further restrictions and get the heavy hand of government even further into the process.

Sometimes when I see what happens to groups that legitimately participate and have the FEC decide to go after them or some congressional committee decide to hold a hearing, when you look at the months of negative publicity involved, when you look at the hundreds of thousands of dollars in attorney's fees that have to be spent in order for these individuals or groups to

defend themselves in the exercise of their legitimate constitutional rights, I mean, I ask myself, I think why on Earth would anybody ever put themselves through this?

The effect of all of this Federal regulation is to chill free speech. It is to make people think twice before they participate in the process. That is basically its effect. I believe, frankly, its intended effect is to drive people out in a way, and it is just better off not to get involved.

I would submit, Mr. Speaker, that that is the wrong way to go in our body politic. Free speech is precious. People should be able to engage in free speech without the fear of the government coming down on them. People should be encouraged to run for office, not discouraged.

It is very discouraging to a person of average means who may have good ideas, great ideas, who seeks to run a campaign, and find that he has got to raise that half million dollars by holding numerous fund-raisers, and being on the phone and raising money all the time, whereas, his wealthy opponent simply writes himself a check. He is on the air and in the mail and can sit back and let all the professionals do it. It is just not right.

This Republic was founded upon the idea that all men are created equal. Obviously by men, they meant men and women, but obviously not equal in result, but equal in the opportunity to work and to fight for the things that we believe in.

That opportunity is constrained today by the heavy hand of government. It is going to be made worse by the big government reformers who want to come in and sell you on some snake oil formula to give away your first amendment rights in exchange for the nirvana of campaign reform.

Mr. Speaker, I for one intend to be vigorously involved in this debate and to stand up for our fundamental freedoms. This is really the right to self-governance of the American people. It is not just politicians fighting amongst themselves over how much advantage they can get. I know that it seems that way to our American people.

I hope through these debates they will realize it is really their rights that we are protecting, their rights to freedom of speech, their rights to participate in the political process, their rights to dictate to their government, rather than to have their government controlling them and dictating to them.

After all, let us not forget the words of George Washington: Government does not reason. It is not eloquence. It is force. Like fire, it is a dangerous servant and a troublesome master.

Jefferson referred to it as a necessary evil. But let us remember that it is not a positive good as President Clinton and company would have you think, and therefore the more of it, the better. If some government is good, more is better. That is completely contrary

to the founders who said that it is a necessary evil, that it could be a fearful master and a troublesome servant.

These are concepts, I think, that are almost lost today upon our students in the school, and their concepts we are going to have to revive here in the halls of freedom, in the halls of the United States Congress.

Mr. Speaker, I have appreciated the opportunity to engage in this special order, to get out some of my thoughts about what we need to do relative to the topic of campaign reform. Let me just close by, I guess, citing an ancient but well-founded concept, the hypocritical oath to physicians, which is first do no harm.

Mr. Speaker, it is my sincere hope and prayer that as we embark next week upon this important topic of the Constitution, first amendment rights and campaign reform, that we will, indeed, do no harm.

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#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3616, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. SOLOMON (during the special order of Mr. DOOLITTLE) from the Committee on Rules, submitted a privileged report (Rept. No. 105-535) on the resolution (H. Res. 435) providing for consideration of the bill (H.R. 3616) to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

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#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. RES. 432, SENSE OF HOUSE CONCERNING PRESIDENT'S ASSERTION OF EXECUTIVE PRIVILEGE, AND OF H. RES. 433, CALLING UPON PRESIDENT TO URGE FULL COOPERATION BY FORMER POLITICAL APPOINTEES AND FRIENDS AND THEIR ASSOCIATES WITH CONGRESSIONAL INVESTIGATIONS

Mr. SOLOMON (during the special order of Mr. DOOLITTLE) from the Committee on Rules, submitted a privileged report (Rept. No. 105-536) on the resolution (H. Res. 436) providing for consideration of the resolution (H. Res. 432) expressing the sense of the House of Representatives concerning the President's assertions of executive privilege, and for consideration of the resolution (H. Res. 433) calling upon the President of the United States to urge full cooperation by his former political appointees and friend and their associates with congressional investigations, which was referred to the House Calendar and ordered to be printed.